MONROE COUNTY CLERK'S OFFICE

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No. Pages: 11

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Control #: 202402161641
Index #: E2024003035

Date: 02/16/2024

Time: 6:19:48 PM

Return To:
JENNIFER MORGAN LEVY
24 N. Main Street
Suite 2
Fairport, NY 14450

Dias, Liyanagamage Ranganath Prabashwara

University of Rochester

Total Fees Paid: $0.00

Employee:

State of New York

MONROE COUNTY CLERK'S OFFICE
WARNING – THIS SHEET CONSTITUTES THE CLERKS ENDORSEMENT, REQUIRED BY SECTION 317-a(5) & SECTION 319 OF THE REAL PROPERTY LAW OF THE STATE OF NEW YORK. DO NOT DETACH OR REMOVE.

JAMIE ROMEO

MONROE COUNTY CLERK

EXHIBIT

From: Ranga Dias
Sent: 10/25/2023 8:42:11 AM
To: Robert Heist
Subject: Fwd: Response to your letter

---------- Forwarded message ---------
From: **Ranga Prabhashwara** <rangadiaz@gmail.com>
Date: Wed, Oct 25, 2023 at 10:41 AM
Subject: Fwd: Response to your letter
To: Ranga Dias <rangadiaz@gmail.com>

Begin forwarded message:

From: "Dewhurst, Stephen" <Stephen_Dewhurst@URMC.Rochester.edu>
Subject: Re: Response to your letter
Date: October 25, 2023 at 10:13:52 AM EDT
To: "Dias, Liyanagamage" <rdias@rochester.edu>
Cc: "Payne, Donna" <Donna.Payne@Rochester.edu>, Leslie Thornton <Leslie.Thornton@ropesgray.com>, "Perucchio, Renato" <rlp@me.rochester.edu>, "Dewhurst, Stephen" <Stephen_Dewhurst@URMC.Rochester.edu>

Dear Ranga:

I am writing to respond to your email to me dated October 22, 2023, and your specific request for "prompt attention" to the situation.

I am confused by your response in that e-mail and your incorrect assertion that the "committee is unwilling to accommodate [your] family medical/parental situation." In your e-mail dated October 17, you advised that you would be unable to meet due to your pressing family obligations and imminent birth of your child. In response to your note, and despite the fact that you were not – to my knowledge – on any leave of absence at the time you sent your note, we granted your request to not hold the interview and advised that you need not attend any further interviews (which is what we thought you were requesting under the circumstances). **If you are now requesting to sit for an interview because you have essential information to convey to the Committee that you have not already conveyed, please let me know and the Committee will consider the proposed dates and times you send me.** Again, as I noted in my October 20 e-mail, the Committee has determined that you need not sit for any further interviews and, should you elect to be interviewed, you would be doing so at your own choice and request.

I find it perplexing that you now note the "seriousness of the situation" and feel that sitting for an interview "is of utmost importance in this investigation." As you know, you have been

made aware of the investigation and the issues under the Committee's review for many months. The Committee has provided you with three written requests for materials, but you provided only a partial response to the first request and did not respond at all to the second and third requests. The Committee also requested an interview with you in August, but you were unwilling to participate and declined to appear for the interview you now are requesting. Instead, you reported that you needed to go to another location to work on new experiments. The Committee has offered you multiple opportunities to engage before October, without your agreeing to appear or your submitting additional information responsive to the Committee's three pending requests to you.

The Committee's review activities are coming to a close and NSF is expecting the Committee's report in mid-December. With a goal of meeting that deadline if possible, the Committee is working diligently to complete its review of the information it has collected and to summarize its findings in writing. As I mentioned in previous correspondence, the University will honor its obligations to you under law and its own policy in connection with leave for which you are eligible and approved.

I also think it's worthwhile for me to address the concerns you voiced in your letter to me dated October 14, 2023 about the Investigation Committee composition, reiterating the points you made to Dr. Beth Massimore at NSF in a letter dated September 8, asserting that certain specific members are biased and, accordingly, that you would like the Committee to be reconstituted.

It was and is unclear why several months into direct involvement with the investigative process you chose to voice to NSF in September very specific objections to the make-up of the Committee, concerns you had never before communicated to the University. After you met with all three members of the Committee for two hours on June 9, 2023, you wrote in a letter to me on June 16, 2023, that you "welcome the University's comprehensive neutral unbiased independent investigation into all the allegations," that you were "confident that with the information [you had] provided . . . all the allegations will be found to not support a finding of research misconduct as defined by both the University and the NSF" and that you "welcome the opportunity to be fully vindicated." Thereafter, you met with the Committee two additional times—on July 7 and July 14—each time without voicing these very specific concerns. Your objections months later to the members of the Committee were and are not timely. The University was and is concerned that you raised those concerns only after you had learned about the potential retraction of certain manuscripts and of your co-authors' intent to communicate with Nature to voice their concerns about those published data and to seek voluntary retraction of that 2023 paper. The University took careful steps to inquire about potential conflicts on the part of the members of the Committee in advance of their service and is satisfied with the quality and thoroughness of the fact-finding and deliberations carried out by the Committee to date, which has interviewed many individuals and has fairly reviewed underlying research documentation provided by you and others. And despite the untimely nature of your present objections, the concerns outlined in your letters of September 8 and October 14 nevertheless have been reviewed by the University and discussed with each of the Committee members separately, and based on such review and discussion, the University has concluded that the Committee will not be reconstituted.

I look forward to hearing from you about any desire you have to participate in an interview with the Committee and proposed dates for the same.

Thank you,

Steve

On Oct 22, 2023, at 10:58 AM, Dias, Liyanagamage <rdias@rochester.edu> wrote:

Dear Professor Dewhurst,

I trust this message finds you well. I appreciate your prompt response to my previous communication. However, I am deeply disappointed to learn that the committee is unwilling to accommodate my family medical/parental situation, considering the recent birth of my daughter. Despite your words of well-wishes, it appears that scheduling accommodations are not being made, making it impossible for me to meet with the committee.

I must stress the seriousness of the situation. Conducting a thorough interview is of utmost importance in this investigation. The outcome of these proceedings significantly impacts my professional career and reputation. It is disconcerting that the committee seems to have been mainly influenced by a single problematic student with a history of aggression towards me. The rush to judgment has led to a hasty paper retraction without due diligence in evaluating our scientific discourse. The evidence unequivocally reveals the students' disbelief in the credibility of the criticisms and concerns raised by others about the results presented in the *Nature* paper.

In the realm of research and academia, rigorous scientific debates are customary, where all aspects are thoroughly discussed before submitting a paper. The changed positions and the current trajectory raise concerns about potential biases and a predetermined agenda being pursued by the committee and all involved therewith.

While I understand the importance of my family matter, it should not serve as a pretext for avoiding further interviews. Our interactions with the committee have been limited, primarily comprising general discussions and directed attacks against me. Given my consistent concerns regarding biases within the committee and possible conflicts of interest, it is imperative that this process resumes upon my return from my family leave. A transparent, unbiased, and impartial assessment is essential to uphold fairness and integrity in this matter, possibly necessitating the involvement of a new committee.

I request your understanding and cooperation in ensuring a fair and just evaluation. I look forward to your prompt attention to this matter.

Regards,
Ranga

From: Dewhurst, Stephen <Stephen_Dewhurst@URMC.Rochester.edu>
Sent: Friday, October 20, 2023 12:50 PM
To: Dias, Liyanagamage <rdias@rochester.edu>
Cc: Payne, Donna <Donna.Payne@Rochester.edu>; Leslie Thornton <Leslie.Thornton@ropesgray.com>; Perucchio, Renato <rlp@me.rochester.edu>; Dewhurst, Stephen <Stephen_Dewhurst@URMC.Rochester.edu>
Subject: Re: Response to your letter

Dear Ranga

Thank you for your note.

In light of your personal circumstances, the Committee has determined that you need not attend another interview.

I wish you and your wife much happiness, as you welcome your newly arrived child into your hearts and your lives.

Warm regards,

Steve

On Oct 17, 2023, at 1:11 PM, Dias, Liyanagamage <rdias@rochester.edu> wrote:

Dear Professor Dewhurst,

I appreciate your prompt response. Regrettably, I must inform you that I will be unable to meet this week due to pressing family obligations connected to the imminent arrival of my child. My wife is presently in her 42nd week of pregnancy, and we are eagerly anticipating the arrival of our new family member at any moment. Given this situation, I kindly request your understanding and accommodation in this matter. If accommodating my personal circumstances poses any challenges for you or the committee, please inform me at your earliest convenience.

Regarding your response concerning the retraction letter, I would like to respectfully express my disagreement with your assertion that the letter was exclusively prepared by the students. I would like to point out that both you and Leslie Thornton have been actively engaged with the committee, playing a significant role in the preparation and submission of the letter to Nature, requesting retraction.

Subsequently, the letter was disseminated publicly by one or more co-authors, legal counsel, and/or the U of R, thereby bringing it to the attention of the committee. In light of these facts, I respectfully disagree with the notion that the committee was not involved in this process.

In consideration of my request for reasonable accommodation due to my wife's current medical condition, please do not hesitate to share any requests or questions from the committee. I will make every effort to address these inquiries during this period while I am supporting my wife.

I sincerely appreciate your understanding and cooperation in this matter.

Regards,
Ranga

From: Dewhurst, Stephen <Stephen_Dewhurst@URMC.Rochester.edu>
Sent: Monday, October 16, 2023 11:27 AM
To: Dias, Liyanagamage <rdias@rochester.edu>
Cc: Payne, Donna <Donna.Payne@Rochester.edu>; Dewhurst, Stephen <Stephen_Dewhurst@URMC.Rochester.edu>; Leslie Thornton <Leslie.Thornton@ropesgray.com>
Subject: Response to your letter

Dear Ranga:

Below I have responded to each of your questions, which I have cut/paste from your letter and inserted below.

Let me know if you'd like to discuss by telephone.

Thanks,

Steve

* * * *

First, please let me know under what rules the committee is proceeding, and that govern its organization, responsibilities, and authority.

The Investigation Committee (the "Committee") is carrying out its charge in accordance with the University's Policy on

Research Misconduct (the "Policy"), NSF regulations (45 CFR Part 689), and NSF's instructions per NSF's investigation referral letter dated March 16, 2023. The Policy and the NSF letter (which references NSF's regulations) have been provided to you by the University.

Second, could you please provide me with the agenda for the proposed meeting? If there are specific questions or topics that the committee intends to address, I would appreciate receiving those details in advance. This will enable me to prepare thorough and relevant responses, ensuring a productive discussion during the meeting.

Yes, once you confirm a specific date for the meeting, the Committee will ensure that you receive any questions or topics in advance of the meeting. These likely will be in the same vein as those questions posed to, and materials requested from, you in writing by the Committee throughout the investigation process.

Also, the pending birth of your child is noted. However, at present, I am not aware that you have submitted any request for leave in connection with that event. The University will honor its policies and your rights in connection with any such leave request, while also understanding that the investigation is rooted in separate regulatory requirements as noted above. The Committee would like to provide you an opportunity to speak with them this week, in hopes of avoiding such conflict between its investigation activities and your child's birth, as possible.

The Committee members are holding the following dates/times on their calendars:

- **10/17** – 12-1 pm, 2-3 pm PT (3-4 pm ET, 5-6 pm ET)
- **10/20** – 11 am-1 pm PT (2-4 pm ET)

If you will attend, please confirm which of these dates/times work for you.

Third, considering recent developments involving the University's collaboration with its own legal counsel in the retraction of the recent reddmatter (Lu-H-N) paper, I believe it is imperative for me to have legal representation during any interactions with the committee. Please confirm that this will be permitted.

As an initial matter, please note that the Committee is not involved in the recent request for retraction led by your co-authors, including University students (current and former), University faculty, and UNLV faculty.

Separate and apart from the ongoing research misconduct proceedings, when there are potential data integrity issues raised about the research products of the University community, it is incumbent upon the University to support efforts to communicate concerns about the scientific record. As you may know, your co-authors independently assembled on their own accord to review their concerns, created a draft letter, and collected underlying documentary evidence related to their concerns, which materials they then shared with the University and its counsel and requested assistance in coordinating these coauthors' comments in a unified communication to *Nature*.

Per the Policy, you "may utilize the assistance of and be accompanied by a member of the faculty [or] staff of the University," but "[l]egal counsel may not accompany [you] in any appearance before the committee." Accordingly, you are permitted to ask another member of the University community to accompany you as a support. If you would like to exercise this option, please let me know who you would like to attend.

Along the same lines, please let me know if counsel for the University or committee will attend or play any role, and if a record (transcript or audio) will be made.

I (Steve Dewhurst) and the University's outside counsel, Leslie Thornton, will be attendance along with the Committee members, as with your prior meetings with the Committee. As explained before your first meeting with the Committee, the University's counsel is assisting the Committee and myself, as RIO, to facilitate the investigation processes and to ensure that University and federal requirements are followed throughout the investigation process. As with your prior interactions with the Committee, the Committee will develop the questions/topics to be discussed with you and will lead the discussion.

The Policy requires the Committee to "assure that all aspects of the investigation, including all interviews conducted, are sufficiently documented." As with your prior interviews the Committee, this upcoming interview will be recorded and that recording will be transcribed in writing after the interview. All

written transcripts for all your meetings with the Committee will be provided to you for review in tandem with the draft investigation report.

Lastly, I wish to confirm that I will have the full 30 days stipulated in the Faculty Handbook to respond to the draft report once it is made available. To facilitate a timely and comprehensive response, I kindly request that you email me the draft report on the same day it is dated. Having the report promptly will ensure that I can provide a thorough and well-considered response within the designated timeframe.

Yes, you will have 30 days to review the report from the day on which you receive the draft report, regardless of any date written on the draft report itself. In other words, the 30-day clock starts when you receive the report. The report will be sent by email and the University will assume that you have received the report on the same day that email is sent. The Committee must receive your comments within that 30-day period.

If you provide any comments, the Committee will review and consider those comments and, as the Committee sees fit, will make any additional updates to the draft before finalizing the report and submitting the final report to the deciding official. Any written comments or response you provide will be appended to the final report.

For reference, here is the relevant Policy language: "The committee shall give the respondent a copy of its draft investigation report and, concurrently, a copy of or supervised access to the evidence on which the report is based. The respondent's comments, if any, must be submitted within 30 days of receipt of the draft report."

Warm regards

Steve

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Ranga P. Dias

School of Engineering and Applied Sciences and
Department of Physics and Astronomy
220 Hopeman Building
University of Rochester

Rochester, NY 14627
Cell:(509) 270 2178Work:(585) 276 4112

Email: rdias@rochester.edu

Website: http://labsites.rochester.edu/dias/

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Control #: 202402161642
Index #: E2024003035

Date: 02/16/2024

Time: 6:19:49 PM

Return To:
JENNIFER MORGAN LEVY
24 N. Main Street
Suite 2
Fairport, NY 14450

Dias, Liyanagamage Ranganath Prabashwara

University of Rochester

Total Fees Paid: $0.00

Employee:

State of New York

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JAMIE ROMEO

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